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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

March 3, 1995

William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

RE: Ex Parte Comments
CC Docket No. 94-1
LEC Price Cap Performance Review

Dear Mr. Caton:

The Consumer Federation of America (CFA) and the International Communications Association (ICA) hereby supplement the record in this LEC Price Cap Performance Review proceeding to respond to various ex parte submissions and comments submitted by other parties. The submissions include the United States Telephone Association's (USTA) January 18, 1995 ex parte communication to the Commission titled "A Proposal for the LEC Price Cap Plan" (January ex parte) which purportedly revises its price cap proposal and comments submitted thereon. In a Public Notice released January 24, 1995, the Common Carrier Bureau suggested that parties respond to the USTA ex parte by January 31, 1995 or as soon thereafter as possible. Just like most non-local exchange carrier (LEC) parties to this proceeding, CFA and ICA oppose both USTA's original proposal and its January ex parte. We are also concerned about what we believe is an abuse of the ex parte process by USTA.

CFA and ICA believe the time is now overdue for the Commission to act to correct the obviously overly generous LEC price cap plan. Further submissions like those made by USTA simply serve to burden the record of this proceeding. These filings delay the time when ratepayers of all sizes may have the opportunity to realize the benefits of lower rates for basic interstate access services and related services. The LECs have consistently attempted to characterize their opponents in this proceeding as being the long distance carriers. What the LECs ignore is that residential consumers and business users cannot hope to enjoy lower rates for the long distance services unless the price cap plan is significantly reformed in the manner suggested by CFA and ICA. Moreover, the Commission can ensure that residential and business ratepayers gain full benefit from the Commission's revisions to the price cap plan by requiring that all changes in interexchange carrier access costs be fully flowed through to end user rates on a dollar for dollar basis.

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CFA, ICA, and many other parties have demonstrated that the LECS' current price cap index formulation is far too generous. Specifically, the "X"-factor adopted by the Commission in 1990 was far too low to account for productivity gains, demand growth, and real input price reductions that massively benefit LEC earnings. The LECs have implicitly validated these determinations by submitting their last minute proposed revisions to the LEC price cap plan. Other comments submitted on January 31, 1995 demonstrate that:

(1) its most recent revisions to the X-factor calculations do not cure the serious methodological deficiencies in USTA's previous calculations,

(2) there have been unexplained changes in historical total factor productivity data, and

(3) the ostensible purpose of "updating" the record was a subterfuge for USTA's effort to introduce yet another round of study and analysis to further delay Commission action in this proceeding.

Fundamentally, USTA and the LECs are continuing to try to mutate the price cap plan into an ersatz form of cost-plus regulation, in which these dominant carriers[1] would obtain the benefits of rate of return regulation without the inconvenience of acknowledging that their actual "rates of return" are at exceedingly high historical levels. CFA and ICA believe the LECs have this relationship exactly backwards: Price caps should provide well-defined and invariant incentives to greater efficiency, not a cost-plus solution for the LECs. On the other hand, however, data such as LEC earnings levels, rates of return, and other commonly used financial indicators should continue to be used to evaluate the performance of individual LECs under this regulatory regime -- just as these same measures are used to evaluate the performance of all firms in fully competitive markets. Using rates of return as performance measures in this manner is not "rate of return regulation" as the LECs have suggested, but rather standard practice in the real competitive business world which the LEC's are largely unfamiliar with.

In this proceeding, the Commission should not be tricked into locking in its initial X-factor or any other X-factors that are too low. The attached chart reproduces one that appeared in The Economist magazine (January 28, 1995, p. 64) showing how regulators in Great Britain have increased the X-factor offsets to inflation on a periodic basis. The periodic adjustments in favor of British ratepayers have occurred not only in telecommunications regulation, where British Telecom's prospective X-factor now stands at -8%, but in other price cap-regulated industries as well. CFA and ICA have overlaid the Commission's LEC and IXC X-factors on the attached British price cap chart. These Commission X-factor targets have yet to be adjusted in any fashion. This chart makes it clear that in Great Britain, where price cap theory originated and has been applied to more national industry sectors than in the United States, regulators agree that periodic adjustments towards a more demanding X-factor target are an intrinsic part of price cap regulation. Unfortunately, after following

[1] These carriers experience little or no competition in the vast majority of their service markets.

the British example in initiating price cap regulation here in the U.S., the Commission has failed to follow the most important part of the price cap example -- regular periodic adjustments to X-factors.

In conclusion, the Commission should reject USTA's proposals and adopt the proposals put forth by CFA, ICA, and other parties that share the broad concerns of CARE (Customers for Access Rate Equity). The Commission should correct its LEC Price Cap Performance Review as soon as possible.

Respectfully submitted,

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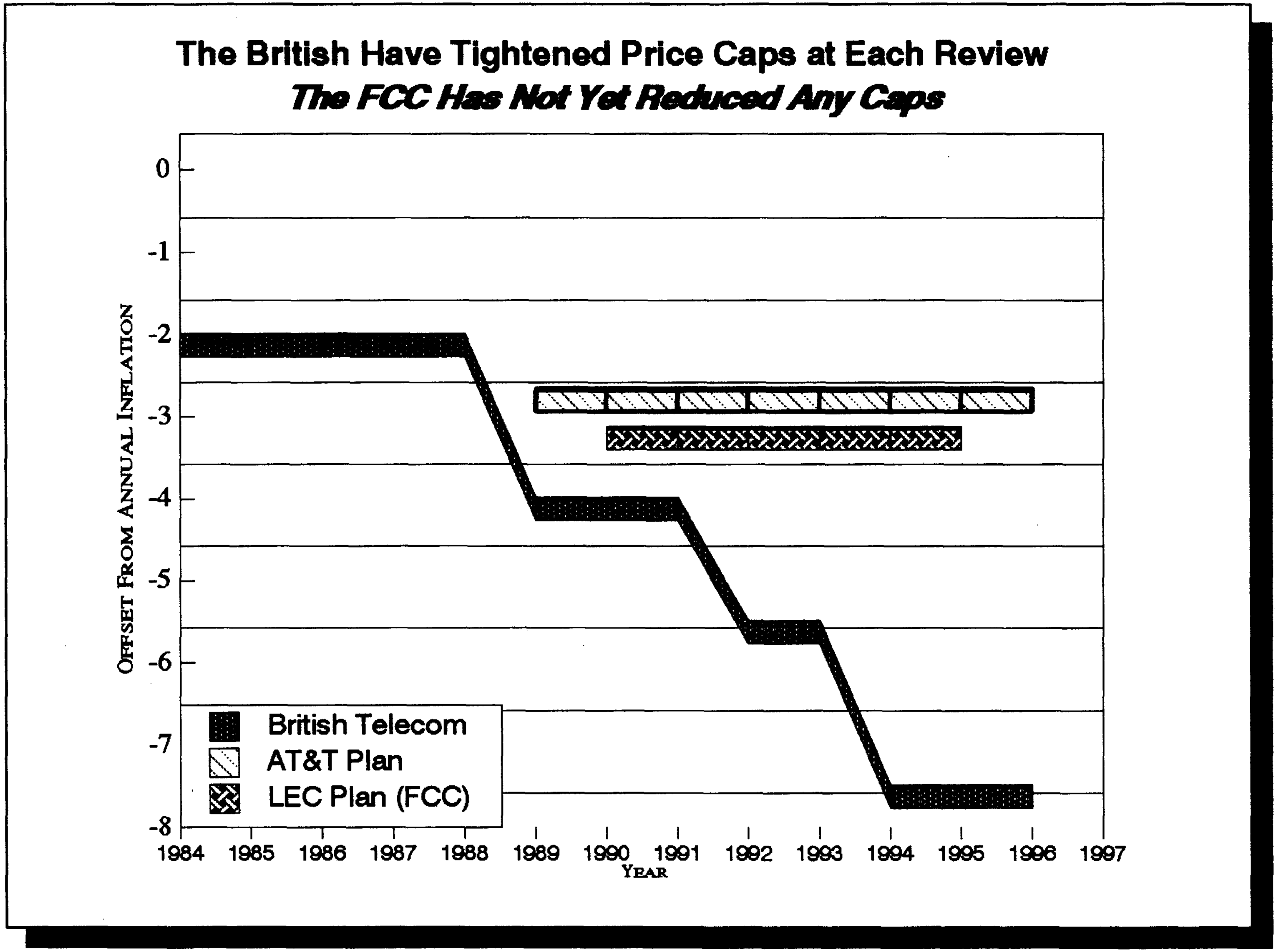

The British Have Tightened Price Caps at Each Review
The FCC Has Not Yet Reduced Any Caps
Offset From Annual Inflation
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